

REMARKS:

The Office Action dated January 22, 2007 has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claim 8 is amended. New claim 10 is added. Support for the amendments and new claims can be found at, *inter alia*, pages 10-11 of the specification. No new matter is added. Accordingly, claims 8 and 10 are pending in the application and are submitted for reconsideration.

Claim 8 was rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,820,386 to LaConti et al. (“LaConti”). Applicants traverse the rejection and submit that claim 8 recites subject matter not disclosed by LaConti.

In particular, the gas sensor of claim 8 including a thin nonporous metal plate that controls diffusion by the precision of a diffusion control hole, which is connected to the cap. In contrast, LaConti discloses a gas sensor that is porous and controls diffusion with the precision of its porosity. Thus, LaConti fails to disclose each and every feature of claim 8. Accordingly, Applicants request that the rejection to claim 8 be withdrawn.

Claim 8 was also rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Published Application No. 2004/0134780 to Inoue et al. In particular, the Office Action cites to Fig. 13 as disclosing relevant features of claim 8. However, Fig. 13 of Inoue was not invented by another and this rejection is improper.

The present application shares three inventors with the 2004/0134780 to Inoue which also includes a fourth inventor, Takeshi Nakahara. However, 2004/0134780 to

Inoue as cited in the Office Action is not prior art to Claim 8 because the subject matter relied upon was not invented by another but was instead invented by the inventors of the present invention. More particularly, the subject matter relied upon was not invented by Mr. Nakahara.

Applicants submit affidavits or declarations under 37 CFR § 1.132 clearly establishing that the relevant disclosure of Inoue (i.e., Fig. 13) is the Applicants' own work and was not developed by another. In re Mathews, 408 F.2d 1393, 161 USPQ 276 (CCPA 1969). In particular, the declarations by the inventors establish that the subject matter disclosed but not claimed in the 2004/0134780 application was the work of one or more of the inventors in the present application. In fact, Fig. 13 was not even present in the priority application for Inoue (2004/0134780) and was not added until the PCT application after Mr. Nakahara left the development team. Thus, the rejection of claim 8 over Inoue is improper and must be withdrawn.

In view of the above, all objections and rejections have been sufficiently addressed. Applicants submit that the application is now in condition for allowance and requests that claims 8 and 10 be allowed and this application passed to issue.

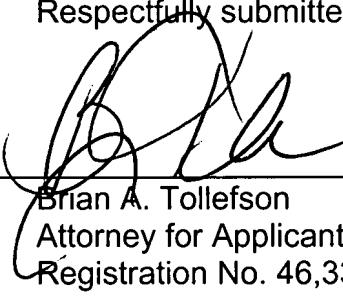
In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by

telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

By



Brian A. Tollefson
Attorney for Applicant
Registration No. 46,338
ROTHWELL, FIGG, ERNST & MANBECK
1425 K. Street, Suite 800
Washington, D.C. 20005
Telephone: (202) 783-6040

BAT/ch
1396228